SENATE BILL No. 443

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-3.1-20.

Synopsis: Child care tax credits for employers. Establishes a state tax credit for an employer that operates or contracts for the operation of a child care program for its employees. Provides that the maximum amount of the credit for each taxable year is the lesser of $20,000 or 40% of the employer's expenditures for capital and operating expenditures for a child care program.

Effective: January 1, 2002.

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January 18, 2001, read first time and referred to Committee on Finance.

Introduced

First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type.~~

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~*this style type*~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

SENATE BILL No. 443

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 6-3.1-20 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]:

Chapter 20. Employer Child Care Expenditure Credits

Sec. 1. As used in this chapter, "child care program" means a program that:

(1) provides care and supervision for children, at least fifty percent (50%) of whom must be children of employees who are provided care and supervision while the employees are working for their employer, as determined by the average daily attendance records for the program during the taxable year;

(2) is operated:

(A) by one (1) or more employers; or

(B) by an entity other than the employer under a written contract with the employer; and

(3) is licensed by the division of family and children under

IC 12-17.2.

Sec. 2. As used in this chapter, "child care program capital expenditure" means the total expenditures that are chargeable to a capital account and are made by a taxpayer during a taxable year to:

(1) acquire, construct, reconstruct, renovate, or rehabilitate; or

(2) plan the construction, reconstruction, renovation, or rehabilitation of;

depreciable property located in Indiana that an employer uses in its child care program or in a child care program established by the employer jointly with one (1) or more other employers.

Sec. 3. As used in this chapter, "child care program operating expenditure" means the total expenditures made by a taxpayer during a taxable year to operate:

(1) the employer's child care program; or

(2) a child care program operated by the employer jointly with one (1) or more other employers in Indiana.

Sec. 4. As used in this chapter, "pass through entity" means the following:

(1) A corporation that is exempt from the adjusted gross income tax under IC 6-3-2-2.8(2).

(2) A partnership.

(3) A limited liability company.

(4) A limited liability partnership.

Sec. 5. As used in this chapter, "state tax liability" means a taxpayer's total tax liability that is incurred under:

(1) IC 6-2.1 (the gross income tax);

(2) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);

(3) IC 6-3-8 (the supplemental corporate net income tax);

(4) IC 6-5.5 (the financial institutions tax); and

(5) IC 27-1-18-2 (the insurance premiums tax);

as computed after the application of the credits that under IC 6-3.1-1-2 are to be applied before the credit provided by this chapter.

Sec. 6. As used in this chapter, "qualified child care program expenditure" means the sum of the taxpayer's:

(1) child care program capital expenditures; and

(2) child care program operating expenditures;

made during a taxable year.

Sec. 7. Except as provided in section 8 of this chapter, a taxpayer that makes a qualified child care program expenditure

during a taxable year is entitled to a credit against its state tax liability for the taxable year in an amount equal to the sum of:

(1) the lesser of:

(A) twenty thousand dollars ($20,000) or, if more than one (1) taxpayer shares in the expenditures, twenty thousand dollars ($20,000) multiplied by the taxpayer's share of qualified child care program expenditures; or

(B) forty percent (40%) of the qualified child care program expenditures of the taxpayer that are made during the taxable year; plus

(2) any amount the taxpayer is entitled to carry over to the taxable year under section 8 of this chapter.

Sec. 8. (a) An employer's credit for a taxable year may not exceed its state tax liability for that taxable year.

(b) If the amount determined under section 7 of this chapter for an employer for a taxable year exceeds the employer's state tax liability for that taxable year, the employer may carry the excess over to the immediately following taxable year. A credit may be carried over under this section only for the three (3) taxable years that immediately follow the taxable year during which the child care program capital expenditures are made.

(c) The amount of a credit carryover under this section shall be reduced to the extent that the carryover is used as a credit during the immediately preceding taxable year.

Sec. 9. (a) If a pass through entity does not have state tax liability against which the credit granted by this chapter may be applied, a shareholder or partner of the pass through entity is entitled to a credit equal to:

(1) the credit determined for the pass through entity for the taxable year; multiplied by

(2) the percentage of the pass through entity's distributive income to which the shareholder or partner is entitled.

(b) The credit provided under subsection (a) is in addition to a credit to which a shareholder or partner of a pass through entity is otherwise entitled under this chapter. However, a pass through entity and a shareholder or partner of the pass through entity may not claim a credit under this chapter for the same qualified child care program expenditure.

Sec. 10. To receive the tax credit provided under this chapter, an employer must claim the credit on its annual state tax return in the manner prescribed by the department. The employer shall also submit a separate application for the credit on forms approved by

the department that show the employer's qualified child care program expenditure for its child care program. The application may be submitted to the department at any time between the close of the employer's taxable year and the date on which the employer is required to file its annual state tax return for the taxable year.

Sec. 11. A credit to which an employer is entitled under this chapter shall be applied against the employer's state tax liability in the order listed in section 5 of this chapter.

SECTION 2. [EFFECTIVE JANUARY 1, 2002] **IC 6-3.1-20, as added by this act, applies only to taxable years that begin after December 31, 2001.**